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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/009,848	12/13/2001	Bruno Colin	BONN-070	1212

32954 7590 04/18/2005

JAMES C. LYDON  
100 DAINGERFIELD ROAD  
SUITE 100  
ALEXANDRIA, VA 22314

EXAMINER

KIM, YOUNG J

ART UNIT PAPER NUMBER

1637

DATE MAILED: 04/18/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/009,848

Applicant(s)

COLIN ET AL.

Examiner

Young J. Kim

Art Unit

1637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 21-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 21, 22, 24, 32, 37 and 46 is/are rejected.
- 7) ☒ Claim(s) 23, 25-31, 33-36 and 38-45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

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### **DETAILED ACTION**

This Office Action is responsive to the Amendment received on January 5, 2005.

#### ***Preliminary Remark***

The addition of new claim 46 is acknowledged.

#### ***Claim Rejections - 35 USC § 112***

The rejection of claims 21-45 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter, made in the Office Action mailed on October 6, 2004 is withdrawn in view of the Amendment received on January 5, 2005.

#### ***Claim Rejections - 35 USC § 102***

The rejection of claims 21-26, 29-41, and 43-45 under 35 U.S.C. 102(b) as being anticipated by Southgate et al. (U.S. Patent No. 5,863,801, issued January 26, 1999), made in the Office Action mailed on October 6, 2004 is withdrawn in view of the Amendment received on January 5, 2005.

#### ***Necessitated by Amendment***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 21, 22, 24, 32, 37, and 46 are rejected under 35 U.S.C. 102(b) as being anticipated by Zanzucchi et al. (U.S. Patent No. 5,755,942, issued May 26, 1998).

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Zanzucchi et al. disclose a device and its method of use comprising a plurality of modules (element 48, Figure 1B), each module comprising a plurality of wells arranged in serial pattern (therefore, having an initial and subsequent level), said wells connected by a microchannel (thus a reaction line)(element 38, Figure 1B), each well corresponding to different reactions (thus at least one processing at each well or level) (column 4, lines 40-49), and at least two valves controlling the fluid flow from one chamber to the next (Figures 6A-B and column 9, line 61 to column 10, line 5), thereby anticipating claims 21-22 and 32.

The microchannel (or the reaction line) of the module (element 48, Figure 1B) is perpendicular to the end of the microfluidic device (Figure 1B), anticipating claim 24.

The device of Zanzucchi et al. comprises a fluid inlet (element 34 or 50, Figure 1B) and a separate fluid outlet (microchannel connecting each of the chambers serves as fluid outlet from each chamber), thereby anticipating claim 46.

Vertical insertion of sample is disclosed (column 4, lines 25-27), anticipating claim 37.

Therefore, Zanzucchi et al. anticipate the invention as claimed.

### ***Conclusion***

No claims are allowed.

Claims 23, 25-31, 33-36, and 38-45 are objected to for being dependent on a rejected base claim.

### ***Inquiries***

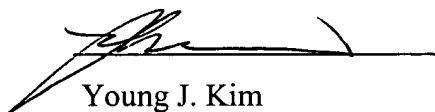
Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Young J. Kim whose telephone number is (571) 272-0785. The Examiner is on flex-time schedule and can best be reached from 8:30 a.m. to 4:30 p.m. The

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Examiner can also be reached via e-mail to [Young.Kim@uspto.gov](mailto:Young.Kim@uspto.gov). However, the office cannot guarantee security through the e-mail system nor should official papers be transmitted through this route.

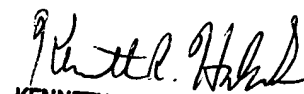
If attempts to reach the Examiner by telephone are unsuccessful, the Primary Examiner in charge of the prosecution, Dr. Kenneth Horlick, can be reached at (571) 272-0784. If the attempts to reach the above Examiners are unsuccessful, the Examiner's supervisor, Gary Benzion, can be reached at (571) 272-0782.

Papers related to this application may be submitted to Art Unit 1637 by facsimile transmission. The faxing of such papers must conform with the notice published in the Official Gazette, 1156 OG 61 (November 16, 1993) and 1157 OG 94 (December 28, 1993) (see 37 CFR 1.6(d)). NOTE: If applicant does submit a paper by FAX, the original copy should be retained by applicant or applicant's representative. NO DUPLICATE COPIES SHOULD BE SUBMITTED, so as to avoid the processing of duplicate papers in the Office. All official documents must be sent to the Official Tech Center Fax number: (571) 273-8300. For Unofficial documents, faxes can be sent directly to the Examiner at (571) 273-0785. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600.



Young J. Kim  
Patent Examiner  
Art Unit 1637  
4/14/05

**YOUNG J. KIM  
PATENT EXAMINER**



**KENNETH R. HORLICK, PH.D  
PRIMARY EXAMINER**

4/14/05

yjk